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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-592

Filed 16 April 2025

Hoke County, Nos. 21CRS050693-460, 21CRS051001-460

STATE OF NORTH CAROLINA

v.

TERRY LEE BOHL

Appeal by defendant from judgment entered 23 August 2023 by Judge Stephan R. Futrell in Hoke County Superior Court. Heard in the Court of Appeals 25 February 2025.

*Attorney General Jeff Jackson, by Assistant Attorney General Farrah R. Raja, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Emily Holmes Davis, for defendant-appellant.*

DILLON, Chief Judge.

Defendant Terry Lee Bohl was charged with two counts of misdemeanor violation of a domestic violence protection order (“DVPO”) arising from incidents on 18 June 2021 and 28 August 2021.

Defendant was tried on both counts by a jury in superior court. At the close of

the State's evidence, Defendant moved to dismiss both DVPO charges for lack of sufficient evidence. The court denied the motion.

The jury convicted Defendant of both charges. The trial court sentenced Defendant to consecutive 100-day sentences for each conviction.

On appeal, Defendant challenges only his conviction for the 28 August 2021 DVPO violation. He argues that the trial court erred in failing to dismiss the DVPO violation charge. Specifically, Defendant contends the trial court should have dismissed the charge because the State failed to establish that Defendant *knowingly* violated the DVPO. *See* N.C.G.S. § 50B-4.1(a) (2023) (stating “knowingly” as the *mens rea* requirement to establish a DVPO violation).

“Upon [the] defendant’s motion for dismissal, the question for the Court is whether there is substantial evidence (1) of each essential element of the offense charged . . . and (2) of [the] defendant’s being the perpetrator of such offense.” *State v. Powell*, 299 N.C. 95, 98 (1980). “Whether the State presented substantial evidence of each essential element of the offense is a question of law; therefore, we review the denial of a motion to dismiss de novo.” *State v. Crockett*, 368 N.C. 717, 720 (2016). “Substantial evidence means more than a scintilla of evidence.” *State v. Beck*, 385 N.C. 435, 438 (2023) (quotations and citation omitted).

Accordingly, we must determine whether the State presented substantial evidence that Defendant “knowingly” violated the DVPO.

The evidence before the trial court shows that Defendant’s wife originally

obtained a DVPO against Defendant on 17 July 2020. Defendant's wife later moved to renew the DVPO. Following a 23 July 2021 hearing on the matter, the trial court granted her motion to renew, extending the DVPO for two more years. However, the following month, on 28 August 2021, Defendant called his wife twice and drove by her residence multiple times, in violation of the renewed DVPO.

Defendant did not attend the DVPO renewal hearing and contends that he did not know the renewed DVPO had been granted and was in effect on 28 August 2021.

The "Order Renewing Domestic Violence Protective Order" filed 23 July 2021 extended the previous DVPO until 17 July 2023. At the bottom of that order, there is a section titled "Certificate of Service When Defendant not Present at Hearing[.]" which instructs someone to sign and date the section to certify that the order was served on the named defendant. This section was left blank on the renewed DVPO. However, the clerk in charge of domestic violence matters at the Hoke County Clerk of Courts (the "DV Clerk") testified that this section was blank because the Clerk's Office's procedure is to mail a copy of the order to a party who was not present in court. The DV Clerk testified that the only way she would know if Defendant were *not* served with the renewed DVPO would be if the mailed order were returned in the envelope in which it was mailed out. The defense attorney asked, "Is there any way you can look at this document and say definitively that [Defendant] ever received it?" The DV Clerk responded, "No."

When viewed in the light most favorable to the State and drawing every

reasonable inference in the State's favor, *see State v. Elder*, 383 N.C. 578, 586 (2022), there is substantial evidence Defendant knew of the renewed DVPO.

As an appellate court, our task is to focus on the sufficiency of the evidence, not the weight of the evidence. *See State v. Tucker*, 380 N.C. 234, 240 (2022). Weighing the evidence is the jury's task. *Id.* *See also State v. Fritsch*, 351 N.C. 373, 379 (2000) ("Contradictions and discrepancies do not warrant dismissal of the case but are for the jury to resolve.").

The DV Clerk testified about the Clerk's Office's procedure for notifying a defendant by mail about the entry of a DVPO and testified that the blank section on the form did not mean that Defendant was not notified. *See Parnell-Martin v. High Point Motor*, 277 N.C. 312, 321 (1970) (holding that there is a rebuttable presumption that a notice sent by regular mail was received by the addressee). It was the jury's task to weigh the DV Clerk's testimony and determine whether Defendant had been notified of the renewed DVPO. It was also the jury's task to determine whether Defendant knowingly violated the renewed DVPO on 28 August 2021 based on the circumstances presented. *See State v. Bogle*, 324 N.C. 190, 195 (1989) ("Knowledge is a mental state that may be proved by offering circumstantial evidence to prove a contemporaneous state of mind. Jurors may infer knowledge from all the circumstances presented by the evidence.").

We conclude the superior court did not err in denying Defendant's motion to dismiss.

STATE V. BOHL

*Opinion of the Court*

NO ERROR.

Judge FREEMAN concurs.

Judge HAMPSON concurs in result only.

Report per Rule 30(e).